

By: Huffines

S.B. No. 664

A BILL TO BE ENTITLED

AN ACT

relating to the punishment for certain intoxication offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 42A.102(b), Code of Criminal Procedure, is amended to read as follows:

(b) In all other cases, the judge may grant deferred adjudication community supervision unless:

(1) the defendant is charged with an offense:

(A) under Section 49.045, 49.05, 49.065, 49.07, or 49.08 [~~Sections 49.04-49.08~~], Penal Code; [~~or~~]

(B) under Section 49.04 or 49.06, Penal Code, and, at the time of the offense, the defendant held a commercial driver's license or a commercial driver learner's permit;

(C) for which punishment may be increased under Section 49.09, Penal Code; or

(D) for which punishment may be increased under Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under any one of those subsections;

(2) the defendant:

(A) is charged with an offense under Section 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the victim, or a felony described by Article 42A.453(b); and

1 (B) has previously been placed on community  
2 supervision for an offense under Paragraph (A);

3 (3) the defendant is charged with an offense under:

4 (A) Section 21.02, Penal Code; or

5 (B) Section 22.021, Penal Code, that is  
6 punishable under Subsection (f) of that section or under Section  
7 12.42(c)(3) or (4), Penal Code; or

8 (4) the defendant is charged with an offense under  
9 Section 19.02, Penal Code, except that the judge may grant deferred  
10 adjudication community supervision on determining that the  
11 defendant did not cause the death of the deceased, did not intend to  
12 kill the deceased or another, and did not anticipate that a human  
13 life would be taken.

14 SECTION 2. Article 42A.408, Code of Criminal Procedure, is  
15 amended by adding Subsection (i) to read as follows:

16 (i) A judge granting deferred adjudication community  
17 supervision to a defendant for an offense under Section 49.04 or  
18 49.06, Penal Code, shall require the defendant to have an ignition  
19 interlock device installed under this section, regardless of  
20 whether the defendant would be required to have the device  
21 installed if the defendant was convicted.

22 SECTION 3. Section 411.074(b), Government Code, is amended  
23 to read as follows:

24 (b) A person may not be granted an order of nondisclosure of  
25 criminal history record information under this subchapter and is  
26 not entitled to petition the court for an order under this  
27 subchapter if:

1           (1) the person was convicted or placed on deferred  
2 adjudication community supervision for or has been previously  
3 convicted or placed on any other deferred adjudication community  
4 supervision for:

5           (A) an offense requiring registration as a sex  
6 offender under Chapter 62, Code of Criminal Procedure;

7           (B) an offense under Section 20.04, Penal Code,  
8 regardless of whether the offense is a reportable conviction or  
9 adjudication for purposes of Chapter 62, Code of Criminal  
10 Procedure;

11           (C) an offense under Section 19.02, 19.03,  
12 20A.02, 20A.03, 22.04, 22.041, 25.07, 25.072, or 42.072, Penal  
13 Code; ~~or~~

14           (D) any other offense involving family violence,  
15 as defined by Section 71.004, Family Code; or

16           (E) an offense under Section 49.04 or 49.06,  
17 Penal Code; or

18           (2) the court makes an affirmative finding that the  
19 offense for which the order of nondisclosure of criminal history  
20 record information is requested involved family violence, as  
21 defined by Section 71.004, Family Code.

22           SECTION 4. Sections 49.09(b) and (g), Penal Code, are  
23 amended to read as follows:

24           (b) An offense under Section 49.04, 49.045, 49.05, 49.06, or  
25 49.065 is a felony of the third degree if it is shown on the trial of  
26 the offense that the person has previously been convicted:

27           (1) one time of an offense under Section 49.08 or an

1 offense under the laws of another state if the offense contains  
2 elements that are substantially similar to the elements of an  
3 offense under Section 49.08; or

4 (2) two times of any other offense relating to the  
5 operating of a motor vehicle while intoxicated, operating an  
6 aircraft while intoxicated, operating a watercraft while  
7 intoxicated, or operating or assembling an amusement ride while  
8 intoxicated.

9 (g) A conviction may be used for purposes of enhancement  
10 under this section or enhancement under Subchapter D, Chapter 12,  
11 but not under both this section and Subchapter D. Deferred  
12 adjudication community supervision for an offense under Section  
13 49.04 or 49.06 is considered a conviction for purposes of  
14 enhancement of penalties under this section or Subchapter D,  
15 Chapter 12.

16 SECTION 5. The change in law made by this Act applies only  
17 to an offense committed on or after the effective date of this Act.  
18 An offense committed before the effective date of this Act is  
19 governed by the law in effect on the date the offense was committed,  
20 and the former law is continued in effect for that purpose. For  
21 purposes of this section, an offense was committed before the  
22 effective date of this Act if any element of the offense was  
23 committed before that date.

24 SECTION 6. This Act takes effect September 1, 2017.